

**DOCKETED**

**MAR 12 1980**

**FILED**

**1980 MAR 11 PM 4 27**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

**U.S. DISTRICT COURT**

BALLY MANUFACTURING CORPORATION, )

Plaintiff, )

v. )

D. GOTTLIEB & CO., WILLIAMS )

ELECTRONICS, INC. and )

ROCKWELL INTERNATIONAL CORPORATION )

Defendants. )

and

BALLY MANUFACTURING CORPORATION, )

Plaintiff, )

v. )

GAME PLAN, INCORPORATED, )

Defendant. )

CIVIL ACTION NO. 78 C 2246 ✓

CIVIL ACTION NO. 79 C 713 ✓

**NOTICE OF DEPOSITION**

TO: Gerson E. Meyers, Esq.  
Dressler, Goldsmith, Clement,  
Gordon & Shore, Ltd.  
1800 Prudential Plaza  
Chicago, Illinois 60601

John F. Lynch, Esq.  
Arnold, White & Durkee  
2100 Transco Tower  
Houston, Texas 77056

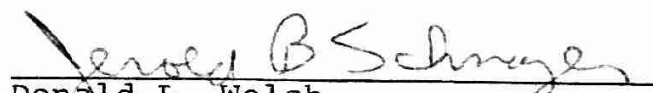
Melvin M. Goldenberg, Esq.  
McDougall, Hersh & Scott  
Suite 1540  
135 South LaSalle Street  
Chicago, Illinois 60603

Howard Arvey, Esq.  
Arvey, Hodes, Costello &  
Burman  
180 North LaSalle Street  
Chicago, Illinois 60601

PLEASE TAKE NOTICE that at 10:00 a.m. on the 17th day of March, 1980, at the offices of Fitch, Even, Tabin, Flannery & Welsh, 135 South LaSalle Street, Suite 900, Chicago, Illinois, the plaintiff Bally Manufacturing Corporation, in the above-entitled action will take the deposition of Russell Spickerman who has been designated by Game Plan under Rule 30(b)(6) to testify with respect to the design, development, construction, operation and testing of solid-state pinball games manufactured and/or sold by Game Plan, Incorporated, including but not limited to "Foxy Lady" and "Sharpshooter", upon oral examination pursuant to the Federal Rules of Civil Procedure before a Notary Public or other officer authorized by law to administer oaths. The oral examination will continue from day to day until complete. The witnesses and the defendant Game Plan are requested to bring with them to the deposition all documents and things requested to Plaintiff's First Request For Production Of Documents And Things Under Rule 34 F.R.C.P. To Defendant Game Plan, Incorporated, served April 13, 1979.

You are invited to attend and cross-examine.

BALLY MANUFACTURING CORPORATION

  
Donald L. Welsh  
A. Sidney Katz  
Jerold B. Schnayer  
Fitch, Even, Tabin, Flannery & Welsh  
135 South LaSalle Street  
Chicago, Illinois 60603  
(312) 372-7842

March 10, 1980

Attorneys for Plaintiff

RECEIVED

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

SEP 13 1979  
H. STUART CUNNINGHAM, CLERK  
UNITED STATES DISTRICT COURT.

BALLY MANUFACTURING CORPORATION,

Plaintiff,

v.

GAME PLAN, INCORPORATED and  
ASTRO GAMES, INC.,

Defendants.

CIVIL ACTION NO. 79 C 713

PLAINTIFF'S FIRST REQUEST FOR PRODUCTION OF  
DOCUMENTS AND THINGS UNDER RULE 34 F.R.C.P.  
TO DEFENDANT GAME PLAN, INCORPORATED

Pursuant to Rule 34 F.R.C.P. Plaintiff, Bally Manufacturing Corporation (Bally), requests defendant, Game Plan, Incorporated to respond within 30 days to the following requests:

I. That defendant produce and permit plaintiff to inspect and copy each of the following documents:

1. All documents which refer to any and all solid-state electronic pinball machines made or sold by Bally.

2. All documents which refer to any and all solid-state electronic pinball machines made or sold by any one other than the defendant and Bally.

3. All documents which refer to or relate to the design or development of any and all solid-state electronic pinball machines constructed, made or sold by the defendant.

4. All documents which refer to or relate to any and all attempts by defendant to design or develop any and all solid-state electronic pinball machines, whether or not successful.

5. All documents which refer to, relate to, or reflect the reasons for defendant's introduction of a solid-state electronic pinball machine into its product line or the decision for such introduction.

6. All documents which refer to, relate to, or reflect the reasons for not introducing a solid-state electronic pinball machine into defendant's product line.

7. All documents which refer to or relate to or reflect defendant's reasons to begin or continue the design, manufacture or sale of pinball machines having an electronic or solid-state control system (as distinguished from an electromechanical system).

8. Separately, for each model of solid-state electronic pinball machines made or sold by defendant, such documents as will disclose the total annual sales in dollars and number of units shipped.

9. All documents which refer to or relate to the preparation, filing, and prosecution of any patent application prepared or proposed for filing, pending or issued, and disclosing subject matter embodied in any solid-state electronic pinball machine made or sold by defendant.

10. A sample of each advertisement, promotional material or sales letter referring or relating to any and all solid-state electronic pinball machines made or sold by defendant.

11. All drawings used in manufacture of any and all solid-state electronic pinball machines made or sold by defendant.

12. All documents including any description concerning the construction or the manner of operation of any and all solid-state electronic pinball machines made or sold by defendant.

13. An operating manual and a service manual for each solid-state electronic pinball machine model made or sold by defendant.

14. All test specifications and test reports on any and all solid-state electronic pinball machines made or sold by defendant.

15. All market surveys, market reports or customer surveys on or involving solid-state electronic pinball machines.

16. All documents including any statement relating to the structure, operation, performance or marketability of any and all electronic pinball machines.

17. All documents relating to agreements and negotiations with respect thereto between defendant and anyone else concerning:

- (a) any indemnification for liability in connection with the manufacture or sale of solid-state electronic pinball machines.
- (b) the design or development of solid-state electronic pinball machines.
- (c) the manufacture or assembly of solid-state electronic pinball machines or the electronic systems therefore.
- (d) the testing of solid-state electronic pinball machines.

18. All documents which refer to the patent rights or potential or prospective patent rights of Bally and authored or prepared by defendant:

- (a) prior to June 6, 1978.
- (b) subsequent to June 6, 1978.

19. All prior art references and other documents on which defendant relies in support of its contentions in its Answer to the Complaint that the patent in suit is invalid.

20. All documents on which defendant relies in support of its contentions in its Answer to the Complaint that the patent in suit is not infringed by defendant.

21. Any and all documents on which defendant relies in support of any contention that plaintiff is not the owner of the patent in suit, or on which defendant relies in contesting plaintiff's title thereto.

22. Any and all documents on which defendant relies in support of its counterclaims against plaintiff in this action.

23. (a) All correspondence between defendant and anyone else concerning the design, development or manufacture of solid-state pinball machines or any electronic component parts thereof.

(b) All notes, memoranda, sketches, drawings and other documents referring or relating to the design, development or manufacture to which reference is made in Part (a) of this request.

24. (a) All correspondence between defendant and Game Plan, Incorporated or Williams Electronics, Inc. or D. Gottlieb & Co. (including correspondence between their respective attorneys) relating to:

(1) solid-state electronic pinball machines.

(2) this action or the patent in suit.

(b) All notes, memoranda, sketches, drawings and other documents referring or relating to the subject matters of the correspondence to which reference is made in Part (a) of this request.

25. (a) All correspondence between defendant and anyone else (not employed by defendant or representing defendant as an attorney or agent) concerning or relating to this action or the patent in suit.

(b) All notes, memoranda, sketches, drawings and other documents referring or relating to the subject matters of the correspondence to which reference is made in Part (a) of this request.

II. That defendant produce and permit plaintiff to inspect and to photograph or test each of the following things:

1. Any and all solid-state electronic pinball machines made or sold by plaintiff or any one other than defendant.

2. Any and all prototypes, engineering models, design models or other physical models used, constructed or made by or for defendant during the design or development of each model of solid-state electronic pinball machines made or sold commercially by defendant.

3. A sample of each model of electronic pinball machines made or sold commercially by defendant.

As used herein, the term "document" includes but is not limited to any letter, intra-company communication, note, memorandum, report, record, minutes of meetings, patent,



patent application, printed publication, article, instruction, work assignment, notebook, draft, worksheet, drawing, sketch, photograph, chart, advertisement, catalog, brochure, news release, trade publication, invoice, program and any other written, recorded or graphic material however produced or reproduced, and, in the absence of the original, a copy thereof and any copy bearing markings thereon not present in the original or other copy thereof.

If any document requested above in Part I is not produced or is withheld, under claim of privilege, supply the following information, separately for each document:

a) author(s) and title(s), recipient(s) and title(s), type of document (letter, memorandum, etc), general subject matter, date, and number of pages;

b) name and job description of each individual to whom the contents of the document have heretofore been communicated;

c) identification as in subparagraph (a), of each document transmitted with or attached to the document withheld;

d) whether any business or non-legal matter is contained or discussed in the document, together with a description of any such subject matter;

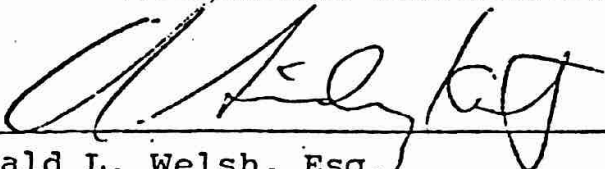
e) the paragraph (s) of the foregoing requests that require(s) production of the document.

As used herein, the term "defendant" includes Astro Games, Inc. the predecessors thereof, all companies

controlled by it, all companies controlling it, and all of its officers, employees, attorneys, counsels, agents, and representative

It is requested that the specified documents and things be produced for inspection and copying at the offices of Fitch, Even & Tabin, plaintiff's attorneys, at 135 South LaSalle Street, Chicago, Illinois, on or before May 13, 1979, at 10:00 a.m.

BALLY MANUFACTURING CORPORATION

  
Donald L. Welsh, Esq.  
A. Sidney Katz, Esq.  
Fitch, Even & Tabin  
135 South LaSalle Street  
Chicago, Illinois 60603  
(312) 372-7842  
Attorneys for Plaintiff

April 13, 1979

Of Counsel:

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Cary A. Gaan, Esq.  
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